IN THE NAME OF ALLAAH MOST MERCIFUL, MOST BENEFICENT

CONSTITUTION

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________________________________.

[Hereafter referred to in the Constitution as the Institute]

1. REGISTRATION.

A. The Institute is compliant with requirements in terms of the company act, 1973 as amended. It is incorporated under section 21 and as set out in Annexure 'A' being the ' Memorandum of Association and Articles of Association' Registration no.**95/01135/08.**

B. The Institute is a public benefit organisation in terms of section 30 of the income tax act. **PBO.NO. _________________.** Annexure 'B'.

C. Names of trustees CM22 certificate issued by registrar of companies and close corporations. Annexure 'C'.

2. ADDRESS.

The office of the Institute shall be situated at:

____________________________________.
____________________________________.
____________________________________.

3. BASIC FOUNDING PRINCIPLES.

The following clauses [A] and [B] embodying the basic principles will be permanent and entrenched. These clauses can never be changed and any member or trustee who attempts to alter or amend these clauses will automatically cease to be a member or trustee.

A. The basis of the functions of this Institute will strictly be the Quraan and the Blessed Sunnah of Rasulullaah [Sallallahu Alaihi Wa Sallam] and the Sahaba-e-Keraam [Radiallaho Anhum], according to the interpretation and accepted views of the Ahlus Sunnah wal Jamaah and as expounded by the four recognised Mazaahab of jurisprudence viz. Hanafi, Shafii, Maliki and Hambali.

B. The meaning of Ahlus Sunnah wal Jamaah will be as expounded by the great Ulama of Deoband, India:
Moulana Mohammed Qasim Nanotwi [Rahmatullah Alaihi]
Moulana Khalil Ahmed Saharanpuri [Rahmatullah Alaihi]
Moulana Mahmoodul Hasan Deobani [Rahmatullah Alaihi]
Moulana Ashraf Ali Thanwi [Rahmatullah Alaihi]
Moulana Hussein Ahmed Madani [Rahmatullah Alaihi]

4. AFFILIATION.

The Institute is affiliated to the JAMIATUL ULAMA SOUTH AFRICA.

5. AIMS AND OBJECTIVES.

A. To enjoin what is correct and forbid what is wrong and to foster the true Aqaaid [beliefs] and practices of the Ahlus Sunnah wal Jamaah.
B. To protect, preserve and promote the Sunnah of Rasullulaah [Sallallahu Alaihi Wa Sallam] and the Sahaba-e-Keraam [Radiallaho Anhum].
C. To protect the Deen from all repugnant innovations.
D. To protect, preserve and promote the religious rights of Muslims.
E. To promote the religious, social, spiritual and educational advancement of Muslim children.
F. To further brotherhood and co-operation in the Muslim community and to co-ordinate all Muslim activities in the locality.
G. To establish, build, maintain and own Islamic centres, libraries, Masaajids, Madrasahs and other similar institutions for the benefit of the Muslims residing in RIDGEWAY, Johannesburg and neighbouring and surrounding towns and to promote essentially the religious needs of the Muslim community.
H. To manage, supervise, control and operate kabrastaans [Muslim graveyards] and the funerals of any deceased Muslim persons.
I. To promote, develop and unify the Islamic educational system.
J. To promote, develop and maintain Deeni, cultural, educational, social, economic and charitable services.
K. To print and publish Islamic literature, periodicals, books or leaflets that the Institute may deem necessary.
L. To co-operate with other institutes having the same aims and objectives.
M. To sell or lease immovable property.
N. To sell, purchase or acquire any movable property, securities or shares.
O. To deal with the funds of the institute in terms of the Shariat.
P. To invite Ulama for lectures, discussions etc.
Q. To institute legal action by resorting to the courts of the land wherever possible in order to safeguard and defend the teachings and laws of Islaam.
R. To use all such means as are legal and permissible under Islaamic law to foster the beliefs and practices of Ahlus Sunnah wal Jamaah.
S. Basically to deal with any or all matters relevant to the Deen of Islaam and the Muslim community.

6. TRUSTEESHIP.

Only such persons may become trustees who belong to the Ahlus Sunnah wal Jamaah and subscribe wholly to the basic principles stated in clauses 3A and 3B above and who further fulfils the Deeni [religious] requirements of a trustee [clause 8].

7. APPOINTMENT OF TRUSTEES.

A person may become a trustee by being one of the following:

A. The waaquif [donor] of the Masjid land or building.
B. The person/s responsible for the construction of the building used for Deeni purposes.
C. The regular mussalis in the case of an existing Masjid.
D. An adult Muslim male residing in the immediate vicinity of the masjid.

8. REQUIRMENTS OF A TRUSTEE, WHO MUST:

A. Be baaligh, sane and a Muslim.
B. Perform the five daily salat regularly.
C. Perform his Jumuah salat.
D. Pay zakat, if liable.
E. Have qualities of taqwa [righteousness] and not shirk in Islamic administration due to fear of taunts and criticism by people.
F. Be well versed in the laws of waqf in the case of waqf property.
G. Be a reliable witness, whose evidence is admissible in an Islaamic court of law.
H. Not be a faasiq [one who openly breaks the laws of Islaam].
I. Be free from serious physical or mental infirmities.
J. Be intelligent and have the ability to safeguard Islaamic interests.
K. Have courage and energy to defend Islaam.
L. Be of upright character and free from immoral blemish.

9. REGULAR MUSSALIES, WHO ARE:

A. Those who perform at least their daily Fajr and Esha salat on most days of the week at the Masjid. In this case Masjid ______________________________________.
B. Male, sane and baaligh.
C. Of good reputation and of virtuous conduct.
D. In possession of knowledge of the requisites and qualifications of trustees.
E. Capable of making a choice and have the necessary insight and judgement.

10. NUMBER OF TRUSTEES.

The trustees shall make up the Shura of the Institute and the Shura shall consist of a minimum of ___ and a maximum of ____ trustees.

11. PERIOD OF OFFICE.

The members of the Shura shall hold office for a period of five [5] years unless earlier terminated in terms of the provisions included in this constitution.

12. APPOINTMENT OF THE AMEER [SUPREME HEAD AND PRESIDENT].

The Ameer shall be appointed by mutual agreement of the Shura members of the Institute.

13. THE AMEER.

A. Shall be the supreme head of this Institute.
B. Should hold office for life.
C. Shall have full power, right and authority to govern, operate and direct the affairs of the Institute with or without consultation or consent of members, provided that all directives and decisions of the Ameer are within the framework of Islaamic law and that these do not contravene or contradict the blessed laws of Islaam.
D. Shall not have the power or authority to pass a ruling or decision contrary to the Shaari law of Islaam.
E. Shall be relieved of his post if he conducts the affairs of the Institute contrary to the laws of Islaam.
F. His directives and verdicts shall be binding provided they conform to the laws of Islaam.

14. PROCEDURE TO BE OBSERVED IN THE EVENT OF THE NEED TO DISMISS THE AMEER OR TRUSTEE.

A. Fatwa or Islamic legal directive/s from recognised Mufti/s [Muslim Jurist] shall be obtained from recognised Islamic authorities in order to ascertain whether the Ameer's action, verdict or directive is contrary to Islaamic laws.
B. If the Fatwa mentioned in 14A establishes that the trustee or Ameer has contravened Islaamic laws, members shall approach the said trustee involved with a view to obtaining a withdrawal or retraction of the contravention in question.
C. In the event of the trustee /Ameer involved refuses to accept the Fatwa mentioned in 14A, The trustee/Ameer shall automatically cease to hold his post. If it were the post of Ameer, than the existing trustees will appoint a new Ameer by mutual agreement.

15. VACANCY.

Should any vacancy arise in the Shura, either as a result of resignation, death or termination of office of any trustee, then the procedure outlined in clause 7 above will come into effect.

16. MANAGEMENT OF TRUST.

All the business and affairs of the Institute shall be managed and controlled by the Shura, who shall have full power to carry out the objectives of the Institute as above [clause 5] and who shall hold the funds in trust for the application of the income and/or capital for the promotion of such objectives, provided that every act or decision of the Shura shall be in accordance with Islaamic law.

17. INDEMNITY OF TRUSTEES.

Every member of the Shura or other office or servant of the Institute shall be and is hereby indemnified against losses, expenses or damages incurred in the discharge of or arising out of his duties.

18. REMOVAL OF TRUSTEE.

The office of trustee shall be vacated:

A. If he be found lunatic or becomes of unsound mind or be declared incapable of managing his own affairs.
B. If he resigns his office by notice in writing to the trustees, at least three [3] months in advance.
C. If he be found guilty by the trustees of misconduct which according to Shariat renders him unsuitable to hold the office of trustee.
D. If he absents himself from three [3] consecutive meetings without obtaining leave of absence from the Ameer or without a valid reason.
E. If he becomes insolvent by order of any competent court, provided that he is found guilty of misconduct.
F. If he shows no interest in the affairs of the trust, or otherwise shows neglect in respect thereof.

19. INTERPRETATION.

The Shura whose decision shall be final and binding shall resolve any dispute with regards to the interpretation of this constitution.

20. AMENDMENTS.

Any amendments to this constitution shall be submitted for approval to the Shura, whose approval in writing shall be necessary for any amendments hereto.

21. POWER TO SUE AND BE SUED.

The Institute may sue and be sued and may enter into contracts and agreements of whatsoever nature provided for within the ambit of Shariat.

22. FINANCE.

A. The income of the Institute shall be applied solely towards the promotion of the objectives of the Institute.
B. The treasurer shall receive and keep all funds of the Institute and deposit it in an approved bank or building society account held an operated in the name of the Institute.
C. The accounts shall be maintained of the sums of money received and expended by the Institute and the treasurer shall prepare or assist in preparing an audited financial statement and balance sheet to the Shura on an annual basis.
D. Funds collected for in the name of the Masjid shall be kept in a bank account, which shall not be operated in the name of the Masjid.

23. DEBT.

A. Debt shall not be incurred in the name of the Masjid even for the needs and requirements of the Masjid.
B. The Masjid is not a legal entity and as such cannot assume duties, liabilities and responsibilities nor can it generally act in law.
C. The Masjid may not sue or be sued in its own name in any court of law.

24. THE MASJID.

A. The Masjid is waqf [trust] property. Ownership of the masjid is vested solely in ALLAAH TA'ALA. Any individual organisation or the Muslim community does not own the Masjid.
B. The Masjid can never be sold, exchanged, given away or alienated in any way whatsoever.

25. THE MUSSALIS.

A. The mussalis [those who perform salat in the Masjid] shall not interfere in the administration of the Masjid. The trustees alone are responsible for such administration.
B. In administering the Masjid affairs, should the trustees act in conflict or in violation of the Shariah, than even a single mussali shall have the right to object and can insist upon the trustees rectifying the wrong.

26. THE RIGHT OF ADMISSION AND WORSHIP IN THE MASJID.

A. Only adherents of the Ahlus Sunnah wal Jamaah [members of the four Mazhabs viz. Hanafi, Shafii, Maliki and Hambali.] have the right of admission and worship in the masjid.
B. Persons belonging to any sect outside the fold of Ahlus Sunnah wal Jamaah cannot enter nor worship inside the Masjid in their own right and they shall possess no such right.

CONT.

26. THE RIGHT OF ADMISSION AND WORSHIP IN THE MASJID. [CONT.]

C. In particular members of the following sects and religions are barred from entering the Masjid, not withstanding their claims to being Muslims: Qadianis, Ahmedis, all the followers of Mirza Gulam Ahmed, Shias and Bahais.
D. Right of admission to the Masjid is reserved. The trustees acting in conformity with a directive obtained from the Ulama have the right to remove any person whomsoever from the Masjid. The decision of the trustees supported by a Fatwa from the Ulama will be regarded as final in this matter.

27. APPOINTMENTS OF SUB-COMMITTEES.

The trustees may from time to time appoint sub-committees consisting of one or more members of their body, or any other person or persons as they deem necessary for the purpose of managing any department of the Institute, and may delegate any of their powers to such sub-committees and from time to time revoke the same or discharge any such sub-committee wholly or in part. Any sub-committee so formed shall in the exercise of such power, so delegated conform to any regulations and instructions which may be imposed upon or given to it by the Shura.

28. RESOLUTION OF SHURA.

A resolution in writing and signed by all members of the Shura shall be a resolution of the Institute.

29. PROCEEDINGS OF SHURA.

A. The Shura shall meet at the times and places fixed by the Ameer.
B. At the first Mashwara [Islamic meeting] the trustees shall elect a Naib Ameer [vice Ameer], Nazim [secretary] and Khasin [treasurer] from amongst their number.
C. A simple majority of the Shura shall form a Quorum for the meeting thereafter.
D. If both the Ameer and Naib [vice] Ameer are absent from the meeting the members shall choose one of the other trustees to preside over the meeting.
E. The Shura may review the office of Ameer, Naib Ameer, Nazim and Khasin if it is deemed necessary.

30. MASHWARA PROCEDURE.

A. Firstly an Ameer-e-Mashwara is appointed and dua [prayer] is made.
B. The Ameer will mention what has to be discussed and will call for the opinions of others present.
C. Only those requested to speak should do so. Nobody else will have the right to speak simultaneously or to interrupt in any way.

CONT.

30. MASHWARA PROCEDURE. [CONT.]

D. The Ameer can ask each one in turn for an opinion or he may just call upon a few of those present.
E. Personal motivation should not direct opinions.
F. If one's opinion differs from that of another, he must not in retaliation make unjust remarks to humiliate anybody, but state his own opinion with supporting reasons.
G. If anyone wishes to talk on some important matter, he must first obtain the permission of the Ameer before expressing it.
H. The Ameer will make the final decision.
I. Once a decision has been taken, everyone is obliged to strictly abide by it. If for any reason a decision fails to produce the desired result than nobody can complain because ALLAAH knows best.
J. The Mashwara is concluded with dua and no other meetings thereafter to discuss or criticise what had transpired at the Mashwara.
K. All information deemed necessary for the mussalis shall be made available from time to time and all other issues shall be kept in confidence between the trustees only.

31. POWERS AND DUTIES OF THE SHURA.

A. To raise funds for the Institute in such a manner as it shall consider most beneficial for the purpose thereof provided that the method does not contravene the Shariat and to invest in the name of the Institute such part thereof as it may deem fit.
B. To acquire in the name of the Institute any lands, building premises and fixed or movable properties for the use to the Institute and to build, demolish, rebuild, add to, alter, repair or otherwise dispose of the same.
C. To open and operate at the discretion of the Shura a banking or building society account of which the signatories shall be the Ameer and any of the two viz. Naib Ameer, treasurer or secretary.
D. To draw, make, endorse, except, extend, execute and issue cheques, promissory notes, bills of exchange and other negotiable or transferable instruments, provided they conform to the Shariat.
E. Lease any property belonging to the Institute on such terms and conditions that conform to Shariat.
F. Evict any tenant of the Institute, if any, when necessary.
G. Collect rent for the Institutes properties.
H. To pay out from the income, the Institutes expenses, rates, taxes and other debts and dues of the Institute.
I. To engage or dismiss teachers, Imaams, Muazzins, clerks and/or other employees with or without assigning any reasons at the decision of the Shura.
J. The Shura shall have the right to create and/or appoint and/or establish ad hoc committees or other committees as and when necessary to deal with any specific matter.
K. Generally to undertake all such matters as may be expedient to further the aims of the Institute or which may be incidental or conducive to the attainment of the aforesaid objectives of the Institute.

CONT.

31. POWERS AND DUTIES OF THE SHURA. [CONT.]

L. In the case of dispute on any Deeni issue, the decision of the **Darul Ifta of Madressa Zakarriya** will be final and binding.
M. To remunerate any person employed or engaged in any capacity by the Institute.

32. WINDING UP.

A. For any reason the Institute is to be disbanded or wound up, then only that meeting, which shall be called up and convened by the **Jamiatul Ulama South Africa** for this purpose shall have the right to pass a resolution in writing, authorising the dissolution of the Institute.
B. If upon winding up and dissolution of the Institute there remains, after satisfaction of all debts and liabilities, any property whatsoever, the same shall be given or transferred to any other institute /association, which in the absolute discretion of the **Jamiatul Ulama South Africa** has objectives similar to the Institute dissolved.

MAY ALLAAH AID AND GUIDE US ALL.

IN THE NAME OF ALLAH MOST MERCIFUL, MOST BENEFICENT

We the undersigned members/trustees of the Institute __________________do hereby accept the constitution herewith and agree to adopt it in achieving the objectives of the Institute at all times.

Thus signed on this day of_________________, at _______________________,
on the ____________________. 20__.
Islamic date _________________. 14__.

[1]______________________________.
[Ameer]

[2]______________________________.
[Naim /Vice Ameer]

[3]______________________________.
[Khasin /Treasurer]

[4]______________________________.
[Nazim /Secretary]

[5]______________________________.
TRUSTEE

[6]______________________________.
TRUSTEE

[7]______________________________.
TRUSTEE

[8]______________________________.
TRUSTEE

[9]______________________________.
TRUSTEE

[10]_____________________________.
TRUSTEE

[11]_____________________________.
TRUSTEE

[12]_____________________________.
TRUSTEE